

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

### **I. DISPUTE**

1. a. Whether there should be additional reimbursement of \$1,221.18 for dates of service commencing on 04/20/01 and extending through 12/22/01.
- b. The request was received on 04/19/02.

### **II. EXHIBITS**

1. Requestor, Exhibit I:
  - a. TWCC 60 and Letter Requesting Dispute Resolution
  - b. TWCC 66c
  - c. EOB/TWCC 62 forms/Medical Audit summary
  - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
  - a. Response to a Request for Dispute Resolution
  - b. Peer review dated 09/14/99
  - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/20/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/21/02. The response from the insurance carrier was received in the Division on 07/05/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information submitted by Requestor is reflected as Exhibit III of the Commission's case file.

### **III. PARTIES' POSITIONS**

1. Requestor: Letter dated 06/12/02

"Please note that these claims were filed numerous times and even a notification of violation was made to Compliance and Practice. This medical dispute was received by

(Carrier) on 04/22/02 and after the fact that this medical dispute was filed, audit was done on these outstanding claims in which they denied based on a peer review. This audit was done on 05/14/02 after these claims were already placed in medical dispute.”

2. Respondent: Letter dated 07/03/02

“The Carrier maintains that bills covering the disputed dates of service were audited, and denied in accordance with attached peer review (see #4 in attached **Exhibit ‘1.’**) This claim arises from a \_\_\_ compensable low back injury which was reviewed by Dr..., a board certified orthopedic surgeon. Per his expert opinion, these medications are not reasonable or necessary. There has not been any change in the claimant’s medical condition since Dr... evaluated this case. Consequently, carrier denied payment for this medication and said denial was proper. Accordingly, carrier submits that reimbursement is not warranted in this case.”

#### IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 07/23/01, 08/06/01, 08/27/01, 09/28/01 and 11/06/01. The remaining dates of service, 04/20/01, 05/19/01, 06/22/01, 09/10/01, 10/18/01, 12/12/01 and 12/22/01, will be addressed in the Dismissal section below.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor’s Table of Disputed Services, the Requestor billed the Carrier \$745.61 for medication dispensed on the remaining dates above in dispute.
4. Per the Requestor’s Table of Disputed Services, the Carrier paid the Requestor \$265.30 for medication dispensed on the remaining dates above in dispute.
5. The Carrier’s initial EOBs, dated 11/21/01, 01/24/02 and 01/30/02, do not show a denial code. However, Carrier’s EOBs with audit dates of 05/14/02 and 05/15/02, showing a denial of “V1 Based upon peer review findings, services rendered are not considered medical necessary” were issued **after** this medical dispute was filed. Pursuant to Rule 133.307 (j) (2), these EOBs cannot be used. This denial will be reviewed as an “F” denial.
6. Per the Requestor’s representative the amount in dispute is \$348.90 for medication dispensed on the remaining dates above in dispute.

7. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
07/23/01 08/06/01 08/06/01 08/27/01 09/28/01 09/28/01 11/06/01 11/06/01 11/06/01	Hydrocodone/APAP Celebrex Hydrocodone/APAP Hydrocodone/APAP Hydrocodone/APAP Celebrex Celebrex Hydrocodone/APAP Zanaflex	\$50.14 \$101.27 \$50.14 \$36.12 \$45.99 \$168.60 \$168.60 \$31.95 \$92.80	\$15.73 \$80.13 \$15.73 \$15.73 \$7.37 \$130.61 \$0.00 \$0.00 \$0.00	No EOB denial code	No MAR	TWCC §408.027 (a) (d); Rules 133.304 (c ); 133.307 (j) (2); MFG Pharmaceutical Fee Guideline	The Carrier's initial EOBs, dated 11/21/01, 01/24/02 and 01/30/02, do not show a denial code. Therefore, this dispute will be addressed as an "F" denial.  TWCC Rule 133.304 (c) states "The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s)." The Carrier's EOBs do not address or support their denial for CPT Code billed. Therefore, the Carrier has not supported their denial in accordance with TWCC Rule 133.304 (c ). Additional reimbursement is recommended in the amount of <b>\$480.31</b> (\$745.61 - \$265.30 carrier payment = \$480.31..
<b>Totals</b>		\$745.61	\$265.30				The Requestor is entitled to reimbursement in the amount of <b>\$480.31</b> .

## V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit **\$480.31** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 27th day of February 2003.

Denise Terry  
Medical Dispute Resolution Officer  
Medical Review Division  
DT/dt

## VI. Dismissal

Date(s) of service 04/20/01, 05/19/01, 06/22/01, 09/10/01, 10/18/01 12/12/01 and 12/22/01 are being dismissed. According to Commission Rule 133.307 (m), the Division may dismiss a request if the commission determines that the medical bills in the dispute have not been properly submitted to the carrier pursuant to §133.304. The Requestor did not submit **reconsideration HCFA 1500s** as required by §133.304 (k) for the above dates of service.. It is the conclusion of the Medical Review Division that this case be dismissed without any additional action being taken at this time. This dismissal does not constitute a decision on these dates of service.

The above DISMISSAL is hereby issued this 27th day of February 2003.

Denise Terry  
Medical Dispute Resolution Officer  
Dispute Resolution Section  
Medical Review Division